

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LEROY FEARS,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 05-CV-1421
)	
JOHN E. WETZEL, Secretary,)	THIS IS A CAPITAL CASE
Pennsylvania Department of Corrections;)	
LOUIS S. FOLINO, Superintendent of)	Hon. Kim R. Gibson
the State Correctional Institution at)	
Greene, MARIROSA LAMAS,)	
Superintendent of the State Correctional)	
Institution at Rockview and STEPHEN)	
A. ZAPPALA, JR. District Attorney of)	
Allegheny County,)	
)	
Respondents.)	

**NOTICE AND MOTION TO REOPEN HABEAS CORPUS PROCEEDINGS
FOLLOWING STATE COURT EXHAUSTION OF SUPPLEMENTAL CLAIM**

Petitioner Leroy Fears, by and through undersigned counsel, hereby files this notice and motion in accordance with this Court's order entered on July 28, 2021. Doc. 70. Mr. Fears respectfully moves to lift the stay and reopen his federal habeas corpus proceedings based on the exhaustion of state court remedies for his supplemental claim.

In support of this motion, Mr. Fears offers the following procedural history:

1. Following state court direct appeal and post-conviction review, Mr. Fears, through prior counsel at the Federal Public Defender, filed a timely petition for writ of habeas corpus on July 23, 2014, pursuant to 28 U.S.C. §2254, challenging the constitutionality of his conviction and sentence of death. Doc. 36. The Respondent filed an answer on January 21, 2016. Doc. 60.
2. On February 8, 2016, Mr. Fears filed a pro se successor petition for post-conviction relief in the Court of Common Pleas of Allegheny County. This petition raised a claim not previously

presented to the state court, and not contained in his initial federal habeas corpus petition filed in 2014. Doc. 63.

3. On March 30, 2016, Mr. Fears filed an unopposed motion to file a supplement to his pending habeas petition and to stay proceedings until his supplemental claim was exhausted in state court. Doc. 63. This motion was granted with stipulation that Mr. Fears file a motion with this Court, within twenty days, notifying it of the state court litigation outcome and requesting that the stay be lifted. Doc. 64.

4. On July 27, 2021, Mr. Fears filed notice with this Court reporting that the denial of Mr. Fears' pro se PCRA petition was upheld by an equally divided Pennsylvania Supreme Court on May 18, 2021. Mr. Fears' Application for Reconsideration was denied on July 8, 2021. Doc. 69. Mr. Fears also requested that the stay remain in place pending his filing of a petition for certiorari with the United States Supreme Court. Doc. 69.

5. On July 28, 2021, this Court granted Petitioner's request for continued stay. Doc. 70. The Court stipulated that within twenty days of the conclusion of certiorari proceedings, Mr. Fears notify this Court and request that the stay be lifted and the case reopened. Doc. 70. This motion is being filed pursuant to this order.

6. Mr. Fears notifies this Court that the United States Supreme Court denied Mr. Fears' Petition for Certiorari on March 7, 2022. *Fears v. Pennsylvania*, No. 21-6636, 2022 WL 660667 (March 7, 2022). As such, he requests that this Court lift the stay in this matter and reopen his habeas proceedings.

Respectfully submitted,

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Dated: March 28, 2022